IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 8912 of 2007(J)

PETITIONER:

VALSA EAPEN, W/O LATE K.S.THOMAS,
KALLUVEEDU, MAYYANADU P.O., KOLLAM.

BY ADV. SRI.G.SHRIKUMAR
SRI.SREEJITH S.NAIR

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
PUNALUR.

2. THE CIRCLE INSPECTOR OF POLICE,
PUNALUR.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
PUNALUR.

4. DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM.

5. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
HOME DEPARTMENT, GOVT. OF KERALA.

BY GOVERNMENT PLEADER SRI.C.M.KAMAPPU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P(C).No.8912 of 2007

Dated this the 2nd day of April, 2007

JUDGMENT

The petitioner, a teacher, is the widow of an advocate. She has come to this Court complaining about the inadequate and unsatisfactory investigation that has been conducted into the death of her husband, a person, aged about 55 years, at the time of his death. He was practicing at Punalur, whereas the petitioner is employed as a teacher in Malappuram district. It is the case of the petitioner that her in-laws did not promptly inform her about the injuries suffered by her deceased husband or his admission to the hospital or the treatment there at. Long later, she was informed that he had breathed his last. She has come to know that inconsistent and contradictory statements were made by her in-laws at different points of time to explain the death of her deceased husband. According to the petitioner, no proper investigation has been conducted at all. She prays that there may be a direction to get a proper and efficient investigation conducted by a specialised agency.

2. Notice was given to the learned Government Pleader. A statement has been filed by the Investigating Officer.

3. Certain fundamental facts have not been disputed. The

deceased with injuries was admitted to the hospital on 31.08.2005. He had injuries on his person and the alleged cause was "assault by father". The father is a person aged about 89 years. No crime was registered immediately thereafter on the basis of the wound certificate issued. The patient was referred to the Medical College, Trivandrum on 07.09.2005. On 08.09.2005 he succumbed to the injury suffered by him . Thereafter an F.I statement is seen registered at the instance of his brother. In that, a totally different version was advanced than the statement of the alleged cause of the doctor in the wound certificate. It was attempted to be described as a case of accidental death. Investigation revealed the emptiness and hollowness of the grievance raised by the brother of the deceased in the F.I statement. Crime was initially registered under Section 174 I.P.C. Later, an allegation was raised that the 89 year old father had assaulted the deceased. It was also alleged that death had occurred not on account of any injuries, but because of some ailments of the deceased. The petitioner moved the Lok Ayukta complaining about the inadequate action by the police officers. Earlier, she had submitted a petition to the Director General of Police also. Ext.P2 is the said complaint. The Lok Ayukta got the matter to be examined by the Superintendent of Police, who submitted Ext. P3 report. Reserving her right

to seek proper relief before the appropriate forum, the proceedings before the Lok Ayukta was not pursued. It was withdrawn and thereafter the petitioner has come to this Court.

4. Notice was given to the learned Government Pleader. As stated, a statement has been filed by the Investigating Officer. The Investigating Officer does not explain clearly as to why no F.I.R was registered from 31.08.05 to 08.09.2005.

5. I shall scrupulously avoid any detailed discussion on merits or make an attempt to resolve the factual controversies raised, lest it might prejudice the interests of the parties. But there can be no doubt whatsoever on the aspect that the file eloquently declares that a proper investigation has not been conducted in the matter. The plight of the petitioner is most unenviable. She was not present when the deceased suffered the injuries which eventually led to his death. The deceased had very serious injuries as can be ascertained from the wound certificate as also the postmortem certificate. How did the deceased suffer these injuries ? Contradictory versions are seen advanced. According to her, an attempt is made to place the blame on the shoulders of the old and aged father of the deceased, a person aged about 89 years. She reasonably apprehends that the injuries were suffered at the hands of the others in the house, probably, the

close relatives of the deceased. She is aggrieved that a proper investigation has not been conducted to bring out the truth. I have my complete sympathies with the petitioner. It is impossible for a reasonably prudent mind to hold that the police had conducted a proper enquiry. I have no hesitation to agree that a proper and effective investigation must be conducted and that no such investigation has been conducted so far. This, I am, satisfied, is an eminently fit case where the 4th respondent, the Director General of Police must immediately direct investigation to be conducted by a specialised investigating agency. I do not want to specify the agency. It will be for the 4th respondent to ascertain the proper personnel to conduct the investigation. I need only say that I am of the opinion that it will only be appropriate that the 4th respondent selects and entrusts such investigation to the most competent hand available at his disposal who can conveniently discharge that obligation.

6. In the result, this Writ Petition is, allowed. The 4th respondent is directed to entrust the investigation to a a competent officer of any specialised agency who shall conduct a proper investigation expeditiously.

7. The 4th respondent shall, within a period of one month from this date, file a statement before this Court as to the steps taken by

the 4th respondent in this regard. The learned Government Pleader shall forthwith communicate the direction to the 4th respondent. File the statement under intimation to the counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-